

SUPERIOR COURT
OF THE
STATE OF DELAWARE

WILLIAM C. CARPENTER, JR.
JUDGE

NEW CASTLE COUNTY COURTHOUSE
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WILMINGTON, DE 19801-3733
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April 16, 2010

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RE: Jeannette and Bernadette Burkins v. Walmart Stores, Inc., et al.
Civil Action No. 09C-08-025 WCC

Submitted: April 12, 2010

Decided: April 16, 2010

On Defendants Westaff, Inc., and Westaff (USA), Inc.'s Motion to Dismiss-GRANTED

Dear Counsel:

The Court has before it a Motion to Dismiss filed by Westaff, Inc., and Westaff (USA), Inc., asserting the facts of the Complaint fail to sufficiently assert facts to support the Plaintiff's claim for respondeat superior found in Count V and the negligent hiring/supervision allegations contained in Count VII. The Court has again reviewed the Complaint filed in this matter as well as the arguments that were

previously made when a similar motion was filed by Wal-Mart and granted by the Court. Based upon this review, the Court finds that the Complaint fails to set forth any facts that would reasonably support Counts V and VII and therefore will grant Westaff's Motion.

The Complaint simply reflects that this is a dispute between five individuals in a parking lot over a parking space and appears to have no relationship to either their employment or their supervision by their employer. There is no assertion that because of the particular positions they held with Westaff that their employment or criminal histories should have put the company on notice that conduct of this nature was likely to occur and thus they were negligently hired. As such, the Court finds that at the moment there is simply no good faith basis to continue to include Westaff in this litigation and the Motion to Dismiss will be granted. However, the order is entered without prejudice to add Westaff back into the Complaint if the facts are developed during discovery that would support such allegations.

IT IS SO ORDERED.

/s/ William C. Carpenter, Jr. _____
Judge William C. Carpenter, Jr.

WCCjr:twp

cc: Christy Magid, Civil Case Manager